

DAVID CHIU, State Bar #189542
City Attorney
YVONNE R. MERÉ, State Bar #173594
Chief Deputy City Attorney
TARA M. STEELEY, State Bar #231775
THOMAS S. LAKRITZ, State Bar #161234
JOHN H. GEORGE, State Bar #292332
KAITLYN M. MURPHY, State Bar #293309
Deputy City Attorneys
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682
Telephone: (415) 554-4655 (Steeley)
(415) 554-4628 (Lakritz)
(415) 554-4223 (George)
(415) 554-6762 (Murphy)
Facsimile: (415) 554-4699
E-Mail: tara.steeley@sfcityatty.org
tom.lakritz@sfcityatty.org
john.george@sfcityatty.org
kaitlyn.murphy@sfcityatty.org

Attorneys for Defendant
CITY AND COUNTY OF SAN FRANCISCO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JANE ROE, an individual; MARY ROE, an individual; SUSAN ROE, an individual; JOHN ROE, an individual; BARBARA ROE, an individual; PHOENIX HOTEL SF, LLC, a California limited liability company; FUNKY FUN, LLC, a California limited liability company; and 2930 EL CAMINO, LLC, a California limited liability company,

Plaintiffs,

vs.

CITY AND COUNTY OF SAN FRANCISCO, a California public entity,

Defendant.

Case No. 4:24-cv-01562-JST

REVISED STIPULATION RE: MEDICAL RECORDS OF MARY ROE AND SUSAN ROE

STIPULATION RELATED TO SUBPOENAS FOR MEDICAL RECORDS

WHEREAS on or about December 31, 2024, counsel for the City and County of San Francisco (the “City”) arranged for service of two subpoenas to certain medical providers for Plaintiffs Mary Roe and Susan Roe;

WHEREAS one subpoena requested “any and all medical, psychiatric, billing (charges, payments, adjustments, and liens), radiology, and imaging records related to [Mary Roe] from 12/30/2014, to present;”

WHEREAS the other subpoena requested “any and all medical, psychiatric, billing (charges, payments, adjustments, and liens), radiology, and imaging records related to [Susan Roe] from 12/30/2014, to present;”

WHEREAS on or about January 14, 2025, counsel for Mary Roe and Susan Roe sent a letter to the City’s counsel asserting objections to the subpoenas and requested that the City withdraw both subpoenas; and

WHEREAS counsel for Mary Roe, Susan Roe, and the City have met and conferred regarding the two subpoenas and have reached an agreement on the following terms:

1. Mary Roe will limit the evidence of her disabilities in the first, second, and third causes of action alleged in the First Amended Complaint for Injunctive and Equitable Relief (“FAC”) (ECF No. 50) to her COPD and herniated disc. Mary Roe will not seek to introduce evidence or testimony at trial or any hearing of any other disabling or medical condition to establish liability with respect of the first, second, and third causes of action alleged in the FAC or superseding complaint.

2. Susan Roe will limit the evidence of her disabilities in the first, second, and third causes of action alleged in the FAC to her spine and back. Susan Roe will not seek to introduce evidence or testimony at trial or any hearing of any other disabling or medical condition to establish liability with respect of the first, second, and third causes of action alleged in the FAC or superseding complaint.

3. Based on Mary Roe’s agreement in paragraph 1, the City will limit any subpoena or other discovery device requesting Mary Roe’s medical records to her COPD and herniated disc. The City will issue a new subpoena conforming to this agreement.

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1 4. Based on Susan Roe's agreement in paragraph 2, the City will limit any subpoena or
2 other discovery device requesting *Susan* Roe's medical records to her spine and back. The City will
3 issue a new subpoena conforming to this agreement.

4 5. The City will also narrow the subpoenas for Mary Roe's and Susan Roe's medical
5 records to January 1, 2020 to present, but reserves the right to seek additional medical records before
6 January 1, 2020, based on the City's expert's review of the first set of medical records. The City will
7 issue a new subpoena conforming to this agreement.

8 6. With respect to psychiatric or mental health records, Mary Roe and Susan Roe agree
9 that they will not introduce evidence or testimony at trial or any hearing regarding any psychiatric or
10 mental health diagnoses or conditions they may have to establish the City's liability for any cause of
11 action in the FAC or superseding complaint. Based on this agreement, the City will agree to limit its
12 subpoenas to not include psychiatric records or seek psychiatric records nor request psychiatric or
13 mental health records with any other subpoena or discovery device. Nothing in this agreement
14 precludes Mary Roe and Susan Roe from introducing evidence or testimony at trial or any hearing
15 regarding "garden variety" emotional distress (i.e. typical emotional responses to distressing situations
16 that a reasonable person would experience under similar circumstances and that does not need medical
17 or expert testimony to prove the extent of the distress). The City reserves the right to challenge the
18 admissibility of any evidence or testimony Mary Roe and Susan Roe may seek to introduce at trial or
19 any hearing regarding "garden variety" emotional distress.

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7. With respect to billing records, the City agrees to limit any subpoena or other discovery device to not include billing records for Mary Roe and Susan Roe. Thus, the City will not seek billing records in the new subpoenas it issues, as outlined above.

Dated: February 10, 2025

DAVID CHIU
City Attorney
YVONNE R. MERÉ
Chief Deputy City Attorney
TARA M. STEELEY
THOMAS S. LAKRITZ
JOHN H. GEORGE
KAITLYN M. MURPHY
Deputy City Attorneys

By: /s/ Thomas S. Lakritz
THOMAS S. LAKRITZ

Attorneys for Defendant
CITY AND COUNTY OF SAN FRANCISCO

Dated: February 10, 2025

WALKUP, MELODIA, KELLY & SCHOENBERGER

By: ** /s/ Ashcon Minoiefar
ASHCON MINOIEFAR

Attorneys for Plaintiffs
JANE ROE, MARY ROE, SUSAN ROE, JOHN ROE,
BARBARA ROE, PHOENIX HOTEL SF, LLC, FUNKY
FUN, LLC, and 2930 EL CAMINO, LLC

***Pursuant to Civil L.R. 5-1(i)(3), the electronic signatory has obtained approval from this signatory.*